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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1969

No. 1186

SOUTHFIELD POLICE OFFICERS ASSOCIATION, a Michigan non-profit corporation, and RONALD ROEDIGER, individually and as president of said corporation,
Petitioners,
v.
CITY OF SOUTHFIELD, a municipal corporation, DONALD V. SMITH, City Administrator, PATRICK G. FLANNERY, City Clerk and C. HUGH DOHANY, City Treasurer,
Respondents,
and
SOUTHFIELD FIRE FIGHTERS ASSOCIATION Local No. 1029, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, a voluntary unincorporated association, and JOHN BEARDSLEY, individually and as president of said association,
Intervening Respondents.

## MEMORANDUM OF RESPONDENTS IN OPPOSITION TO GRANTING OF WRIT OF CERTIORARI

DAVID R. KRATZE,
Southfield Assistant City Attorney,
Attorney of Record for Respondents,
1041 Penobscot Building,
Detroit, Michigan 48226.

SIGMUND A. BERAS,
Southfield City Attorney,
25100 Evergreen Road,
Southfield, Michigan 48075.

Interstate Brief & Record Co., 1036 Beaubien St., Detroit, Michigan 48226
WO 2-8745—WO 2-8732

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### I. JURISDICTION OF THE COURT

Petitioners seek to invoke the jurisdiction of this Court, from a decision of the Court of Appeals of the State of Michigan, by relying on the provisions of 28 U.S.C. 1257 (3) (Petition, p. 3). Having admitted that both the Statute

of the State of Michigan and the Southfield City Charter Amendment are valid (Petition, p. 3), the only conceivable ground under which Petitioners could seek the intercession of this Court is under that category which refers to those cases "where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States". However, a review of the entire record presented by the Petition for Writ of Certiorari, fails to disclose any federal question involved which would bring this Petition within the scope of the aforesaid cited provisions. Nowhere in the record is it shown that the state court's decision passed upon any federal question, but to the contrary a review of the Court of Appeals decision (Petition, Appendix B, p. 23) clearly reveals that the decision of the judgment in the state court was based upon nonfederal grounds which were more than adequate to support its judgment. This judgment, pure and simple, consisted of an interpretation by the state court of an admittedly valid state statute and charter amendment. The petition before this Court seeks to review this interpretation and the only federal question interjected by the Petitioners is that such an interpretation deprived them of a money judgment against the Respondents and therefore deprived them of a property right without due process of law under the Fourteenth Amendment to the Federal Constitution (Petition, pp. 6, 7). It is submitted that were this frivolous argument followed by this Court it would open the door to the United States Supreme Court by all state litigants who raised the issue of constitutionality because their claim for a money judgment deprived them of their property rights.

It should be noted that the Petitioners fail to cite a single case in support of their claim that this Court should

assume jurisdiction of this case under 28 U.S.C. 1257 (3). The only cases cited by Petitioners are state cases dealing with vested rights. These cases were not considered in view of the Court's decision that parity of hours were not covered by the charter amendment. There being no affirmative showing in the record for this Court's assumption of jurisdiction the Petition for Writ of Certiorari should be denied.

## II. ARGUMENT

Although under the decisions of this Court these Respondents are of the opinion that no grounds exist for the exercise of jurisdiction by this Court, they feel obliged to answer some of the arguments presented by Petitioners regarding the interpretation of the parity provisions of the Charter Amendment (Petition, pp. 11-16). Commencing on page 11 of their petition and continuing through page 1c thereof the Petitioners adopt almost verbatim the argument presented in their brief filed in the Court of Appeals to the effect that the provisions of M.C.L.A. 123.841 created a disparity in compensation and wages between the Petitioners and fire fighters. That the City of Southfield, in failing to reduce the Petitioners' regular hours of work to 33 hours or paying the Petitioners additional compensation for all hours worked over 33 hours, deprived them of a vested property right which was granted to them by Section 6.20 of the Southfield City Charter.

An analysis of the plain language of Sec. 6.20 leaves no doubt as to what was stated and what was intended. It was stated and it was intended to avoid the type of claim now being made by Petitioners. The title to the amendment reads: "Fire and Police Departments: Parity of Compensation". There is no reference to parity of hours. The first

sentence of the amendment provides that policemen and firemen having corresponding classifications shall receive equal annual compensation and equal annual pay. Again there is no reference to equal hours. Then so there could be no doubt as to the meaning of the amendment with reference to *average* or normal hours of work and duty the second sentence provides, in among other things, that no disparity in such annual compensation or wages shall occur or be justified because of differences between policemen and firemen as to average or normal hours of work and duty. M.C.L.A. 123.841, in effect when this amendment was passed, reduced the average hours to be worked by firemen to 56 hours. The disparity in hours worked by firemen and policemen existed before the passage of the Firemen Hours of Labor Act and existed at the time that Sec. 6.20 was adopted. There is nothing in the Charter amendment that would justify Petitioners' claim that the amendment provided for keeping the disparity of hours at an equal level. If per chance the legislature might some day reduce the firemen's work week to 40 hours, is it conceivable that the people of Southfield in voting for the Charter amendment intended to reduce the policemen to a 17 hour week? This would seem to follow if Petitioners' arguments were accepted, as by reducing the original 63 hour week to a 40 hour week the police week would be reduced from a 40 hour week to a 17 hour week. We submit that the intent of the Charter amendment and the intent of the people voting for the amendment was to produce a parity of compensation between the firemen and policemen in the City of Southfield, nothing more nor nothing less.

With reference to the state cases cited by the Petitioners, it is obvious that the cases are inapplicable. Neither a denial of due process of law, an abrogation of a vested right or a denial of equal protection of law is involved in

the instant litigation. As was pointed out in the beginning of this memorandum, nothing more is herein involved except an interpretation by the state court of a valid state statute and charter amendment. The decision of the state court is adequately sustained by an intelligent and well reasoned application of local state law. Respondents therefore request that Petitioners' application for Writ of Certiorari be denied.

Respectfully submitted,

DAVID R. KRATZE
Southfield Assistant City Attorney
*Attorney of Record for Respondents*
1041 Penobscot Building
Detroit, Michigan 48226

SIGMUND A. BERAS
*Southfield City Attorney*
25100 Evergreen Road
Southfield, Michigan 48075